

Testimony of Mr. Donald B. Allen  
of E.T. Lawson & Son, Inc.  
Hampton, Virginia

on behalf of the

Petroleum Marketers Association of America (PMAA)

and

The Air Conditioning Contractors of America (ACCA)

and

National Alliance for Fair Competition

on

Electric Utility Industry Restructuring

Before the Committee on Commerce  
Subcommittee on Energy and Power

April 18, 1997

DEAR MR. CHAIRMAN, ON BEHALF OF THE PETROLEUM  
MARKETERS ASSOCIATION OF AMERICA (PMAA), NATIONAL  
ALLIANCE FOR FAIR COMPETITION AND THE AIR CONDITIONING  
CONTRACTORS OF AMERICA (ACCA), I APPRECIATE THE  
OPPORTUNITY YOU HAVE PROVIDED TO US TO  
TESTIFY ON UTILITY DEREGULATION AND WELCOME YOU TO  
VIRGINIA. PMAA REPRESENTS NEARLY 9,000 PETROLEUM  
MARKETERS ENGAGED IN THE DISTRIBUTION OF GASOLINE,  
DIESEL AND HEATING OIL THROUGHOUT THE COUNTRY.  
NEARLY  
90 PERCENT OF THE BUSINESSES THAT WE REPRESENT ARE  
SMALL BUSINESSES. I AM ALSO REPRESENTING THE AIR  
CONDITIONING CONTRACTORS OF AMERICA (ACCA) A TRADE  
ASSOCIATION REPRESENTING MORE THAN 4000 SMALL  
BUSINESSES. I AM PRESIDENT OF E.T. LAWSON, A COMPANY  
BASED IN HAMPTON VIRGINIA THAT DISTRIBUTES HEATING OIL,  
WE ALSO SERVICE AIR CONDITIONING AND HEATING  
EQUIPMENT.  
I AM CURRENTLY CHAIRMAN OF PMAA'S HEATING FUELS  
COMMITTEE. WE BELIEVE THAT UTILITY DEREGULATION IS ONE

OF THE MOST IMPORTANT ISSUES THAT WILL CONFRONT THIS CONGRESS. WE BELIEVE THAT THE TASK THAT CONFRONTS YOU IS FORMIDABLE, AND WILL REQUIRE A CAREFUL BALANCING OF THE NEEDS OF CONSUMERS, UTILITIES AND THE NEED TO ENSURE A COMPETITIVE ENVIRONMENT. WE BELIEVE THAT THE CONGRESS IS EQUAL TO THE TASK AND THAT THE NATION WILL BENEFIT FROM YOUR EFFORTS. THE DEREGULATION OF UTILITIES PRESENTS A UNIQUE OPPORTUNITY TO REDUCE CONSUMER ELECTRIC BILLS, WHICH WILL BENEFIT RESIDENTIAL CONSUMERS, AND IMPROVE THE COMPETITIVE POSITION OF COMMERCIAL VENTURES THAT UTILIZE ELECTRICITY IN THEIR MANUFACTURING AND DISTRIBUTION SYSTEMS. THESE GOALS ARE IMPORTANT AND ARE SUPPORTED BY THE BOARD OF DIRECTORS OF THE PETROLEUM MARKETERS ASSOCIATION OF AMERICA AND THE AIR CONDITIONING CONTRACTORS OF AMERICA. FOR MARKETERS OPERATING GASOLINE AND CONVENIENCE STORES THE COST OF ELECTRICITY TO OPERATE THE STORES, THE REFRIGERATORS

AND THE GASOLINE PUMPS ARE A SIGNIFICANT COST.  
MEMBERS

HAVE INDICATED THAT THEY SPEND APPROXIMATELY \$2,000  
PER

MONTH ON UTILITY COSTS AT EVERY SITE, WHICH REPRESENTS  
NEARLY 10 PERCENT OF THEIR OPERATING EXPENSES.

ONE MARKETER INDICATED THAT A 25 PERCENT REDUCTION  
IN ELECTRICITY COSTS WOULD ADD 7 PERCENT TO HIS  
BOTTOM LINE. GIVEN THE VARIABILITY IN COSTS

THROUGHOUT THE COUNTRY, THIS IS ACHIEVABLE. WE

HOPE THAT THESE REDUCTIONS AND IMPROVEMENTS WILL

ALLOW SOME OF THE COSTS TO BE PASSED ON TO THE

CONSUMERS OF OUR PRODUCTS. ONE PRESSING CONCERN  
FROM

OUR INDUSTRY'S IS WHETHER UTILITY DEREGULATION WILL

REDUCE COMPETITION OR LEAD TO INCREASED COMPETITION.

IN GASOLINE DISTRIBUTION, AIR CONDITIONING DISTRIBUTION

AND SERVICE AND HEATING OIL RETAILING, THE ENVIRONMENT

IS EXTREMELY COMPETITIVE. WE BELIEVE THAT THIS ROBUST

COMPETITIVE ENVIRONMENT IS DUE TO THE NUMBER OF

COMPETITORS IN THE ENVIRONMENT. THUS, WE ENCOURAGE YOU IN YOUR CONSIDERATION OF UTILITY DEREGULATION TO RECOGNIZE THAT COMPETITION DEPENDS ON COMPETITORS. WE WOULD ENCOURAGE YOU TO RECOGNIZE THAT UTILITIES NOT ONLY COMPETE IN THE DISTRIBUTION OF POWER, BUT THAT THEY ALSO COMPETE IN THE SALE OF HEATING AND COOLING EQUIPMENT AND THE SERVICING OF THAT EQUIPMENT. IN YOUR CONSIDERATION OF THIS ISSUE, WE WOULD STRONGLY ENCOURAGE YOU TO ENSURE THAT THE PAST POSITION OF BEING A MONOPOLIST, THE SIGNIFICANT MARKET SHARE AND GOODWILL THAT THE UTILITIES CURRENTLY ENJOY, AND THE CONTINUING POTENTIAL TO TRANSFER AND UTILIZE ANY BENEFITS FROM THE UTILITY TO NON-REGULATED SUBSIDIARIES OR RELATED CORPORATIONS DOES NOT LEAD TO AN UNFAIR ADVANTAGE. WE WOULD THEREFORE ENCOURAGE YOU IN YOUR BILL TO TAKE STEPS TO ENSURE THAT COMPETITION IN THE PROVISION OF NON-REGULATED SERVICES WILL BE PRESERVED AND ENHANCED. INCLUDING A PROVISION

PROHIBITING CROSS SUBSIDIZATION IS ESSENTIAL.

WITHOUT THIS PROVISION, IT WOULD BE POSSIBLE FOR THE UTILITY TO TRANSFER RATE BASED FUNDS, OR THE VALUE OF THE UTILITY'S GOODWILL AND OTHER INTANGIBLE ASSETS TO A NON-REGULATED UTILITY. THIS COULD INCLUDE THE TRANSFER OF CUSTOMER LISTS AND RELATED INFORMATION, THE VALUE OF THE CORPORATE NAME, AND EVEN A TRAINED WORKFORCE. ALL OF THESE ASSETS HAVE VALUE, AND THEY SHOULD NOT BE TRANSFERRED TO ANY PARTY WITHOUT FULL AND FAIR COMPENSATION. A FAILURE TO BE FULLY COMPENSATED FOR THE TRANSFER OF THE ASSETS LESSENS THE VALUE OF THE UTILITY THUS HARMING RATEPAYERS, BUT ALSO PROVIDES AN UNFAIR ADVANTAGE TO A NEW MARKET PARTICIPANT.

SECOND, WE THINK THAT THE UTILITIES SHOULD BE DIVESTED OF NON-UTILITY FUNCTIONS AND SUCH DIVESTITURE SHOULD OCCUR QUICKLY. AS LONG AS THE UTILITY AND ITS NON-UTILITY ASSETS ARE OPERATING AS A SINGLE CORPORATION THE ABILITY TO TRANSFER VALUE

FROM THE UTILITY IS UNRESTRICTED AND NOT APPARENT. SEVERING THESE RELATIONSHIPS SHOULD BE A FIRST STEP IN THE RESTRUCTURING OF THE UTILITY. THIRD, THE TRUE VALUE OF THE CUSTOMER RELATIONSHIP MUST BE ESTABLISHED. AS YOU KNOW, CUSTOMERS AND THE ABILITY TO REACH CUSTOMERS IS ONE OF THE MOST IMPORTANT ASSETS OF A BUSINESS. IN THE HEATING OIL BUSINESS, THE BOOK VALUE OF THE BUSINESS IS DIRECTLY RELATED TO THE CUSTOMER LIST, AND MANY BUSINESSES ARE BOUGHT AND SOLD BASED ON THE NUMBER OF REGULAR CUSTOMERS. UTILITIES HAVE AN EXTENSIVE CUSTOMER LIST, WHICH WILL INCLUDE ENERGY USE, THE TYPES OF APPLIANCES IN THE HOUSE AND THE CREDIT OF THE CONSUMER HAVE A VERY VALUABLE ASSET. THIS ASSET SHOULD NOT BE SHARED. IF THE UTILITY WISHES TO TRANSFER OR CAPTURE THE VALUE OF THE ASSET, ALL COMPETITORS SHOULD HAVE THE RIGHT TO ACCESS THE INFORMATION IN A NON-DISCRIMINATORY FASHION. FOURTH, PRECAUTIONS MUST BE TAKEN TO ENSURE

THAT STRUCTURAL RESTRICTIONS DO NOT IMPEDE  
COMPETITION. THE UTILITY AND NON-REGULATED FUNCTIONS  
SHOULD NOT DEVELOP ANY SPECIAL RELATIONSHIPS WHICH  
PROVIDE THAT NON-REGULATED FUNCTION AN ADVANTAGE.  
MR. CHAIRMAN, WE RELISH THE OPPORTUNITY TO COMPETE  
FAIRLY WITH THE UTILITIES. WE HAVE COMPETED AGAINST  
MAJOR OIL COMPANIES AND SOME OF THE LARGEST  
CORPORATIONS IN AMERICA, AND I AM HERE REPRESENTING  
AN INDUSTRY THAT HAS SUCCEEDED IN THAT COMPETITION  
AND CONTINUES TO GROW ITS MARKET SHARE. IF THE  
COMPETITIVE ENVIRONMENT IS FAIR, WE WILL PROSPER.  
HOWEVER, IF UTILITIES ARE PROVIDED WITH ADVANTAGES,  
OR HEAD STARTS, MANY OF THE SMALL BUSINESSES THAT I  
AM HERE REPRESENTING WILL FALTER AND FAIL. THE  
RESULT WILL BE LESS CHOICE FOR THE CONSUMER, LESS  
INNOVATION IN THE MARKETPLACE, AND HIGHER PRICES  
FOR EVERYONE. I LOOK FORWARD TO WORKING WITH YOU IN  
THE COMING MONTHS ON THIS ENDEAVOR, AND WOULD



WELCOME THE OPPORTUNITY TO ANSWER ANY QUESTIONS  
THAT

YOU MIGHT HAVE.

### **Summary**

- WE BELIEVE THAT UTILITY DEREGULATION IS ONE OF THE MOST IMPORTANT ISSUES THAT WILL CONFRONT THIS CONGRESS.
- THE DEREGULATION OF UTILITIES PRESENTS A UNIQUE OPPORTUNITY TO REDUCE CONSUMER ELECTRIC BILLS THESE GOALS ARE IMPORTANT AND ARE SUPPORTED BY THE BOARD OF DIRECTORS OF THE PETROLEUM MARKETERS ASSOCIATION OF AMERICA AND THE AIR CONDITIONING CONTRACTORS OF AMERICA.
- FOR MARKETERS OPERATING GASOLINE AND CONVENIENCE STORES THE COST OF ELECTRICITY TO OPERATE THE STORES, THE REFRIGERATORS AND THE GASOLINE PUMPS ARE A SIGNIFICANT COST. MEMBERS HAVE INDICATED THAT THEY SPEND APPROXIMATELY \$2,000 PER MONTH ON UTILITY COSTS AT EVERY SITE.
- WE ENCOURAGE YOU IN YOUR CONSIDERATION OF UTILITY DEREGULATION TO RECOGNIZE THAT COMPETITION DEPENDS ON COMPETITORS.
- ENSURE THAT THE PAST POSITION OF BEING A MONOPOLIST, THE SIGNIFICANT MARKET SHARE AND GOODWILL THAT THE UTILITIES CURRENTLY ENJOY, AND THE CONTINUING POTENTIAL TO TRANSFER AND UTILIZE ANY BENEFITS FROM THE UTILITY TO NON-REGULATED SUBSIDIARIES OR RELATED CORPORATIONS DOES NOT LEAD TO AN UNFAIR ADVANTAGE.
- INCLUDING A PROVISION PROHIBITING CROSS SUBSIDIZATION IS ESSENTIAL.
- WE THINK THAT THE UTILITIES SHOULD BE DIVESTED OF NON-UTILITY FUNCTIONS AND SUCH DIVESTITURE SHOULD OCCUR QUICKLY.
- IF THE UTILITY WISHES TO TRANSFER OR CAPTURE THE VALUE OF THE ASSET, ALL COMPETITORS SHOULD HAVE THE RIGHT TO ACCESS THE INFORMATION IN A NON-DISCRIMINATORY FASHION.

- THE UTILITY AND NON-REGULATED FUNCTIONS SHOULD NOT DEVELOP ANY SPECIAL RELATIONSHIPS WHICH PROVIDE THAT NON-REGULATED FUNCTION AN ADVANTAGE.